

# Medicaid Fraud Control Unit

## State of Missouri



## Annual Report

January 1, 2007

To

December 31, 2007

*Pursuant to Section 191.909, RSMo*  
Attorney General's Office  
Medicaid Fraud Control Unit  
P.O. Box 899  
Jefferson City, Missouri 65102

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## **Overview of Missouri State Medicaid Program**

The single state agency for Medicaid in Missouri is the Missouri Department of Social Services (DSS). The Missouri Medicaid Fraud Control Unit, housed in the Missouri Attorney General's Office, entered into a Memorandum of Understanding (MOU) with DSS when the Medicaid Fraud Control Unit was first created in 1994. A new MOU between DSS and the Medicaid Fraud Control Unit was entered into on October 10, 2003.<sup>1</sup>

The Medicaid Fraud Control Unit receives case referrals from both the Program Integrity Unit and Investigations Unit in DSS. Staff of the Medicaid Fraud Control Unit conducts regular meetings with both DSS units to discuss recent referrals and ongoing cases. The Medicaid Fraud Control Unit also receives case referrals from other state and federal agencies and initiates its own investigations.

Additionally, the Medicaid Fraud Control Unit receives patient abuse and neglect referrals from the Department of Health and Senior Services (DHSS). DHSS operates a 24-hour hotline for patient abuse and neglect complaints and also conducts disqualification hearings for employees of health care facilities who are accused of abuse and neglect. The Medicaid Fraud Control Unit investigates those abuse and neglect complaints which appear to violate criminal statutes. A new system was established approximately four years ago to insure that the Medicaid Fraud Control Unit receives field complaints of abuse and neglect simultaneously with DHSS.

## **Recoveries and Overpayments**

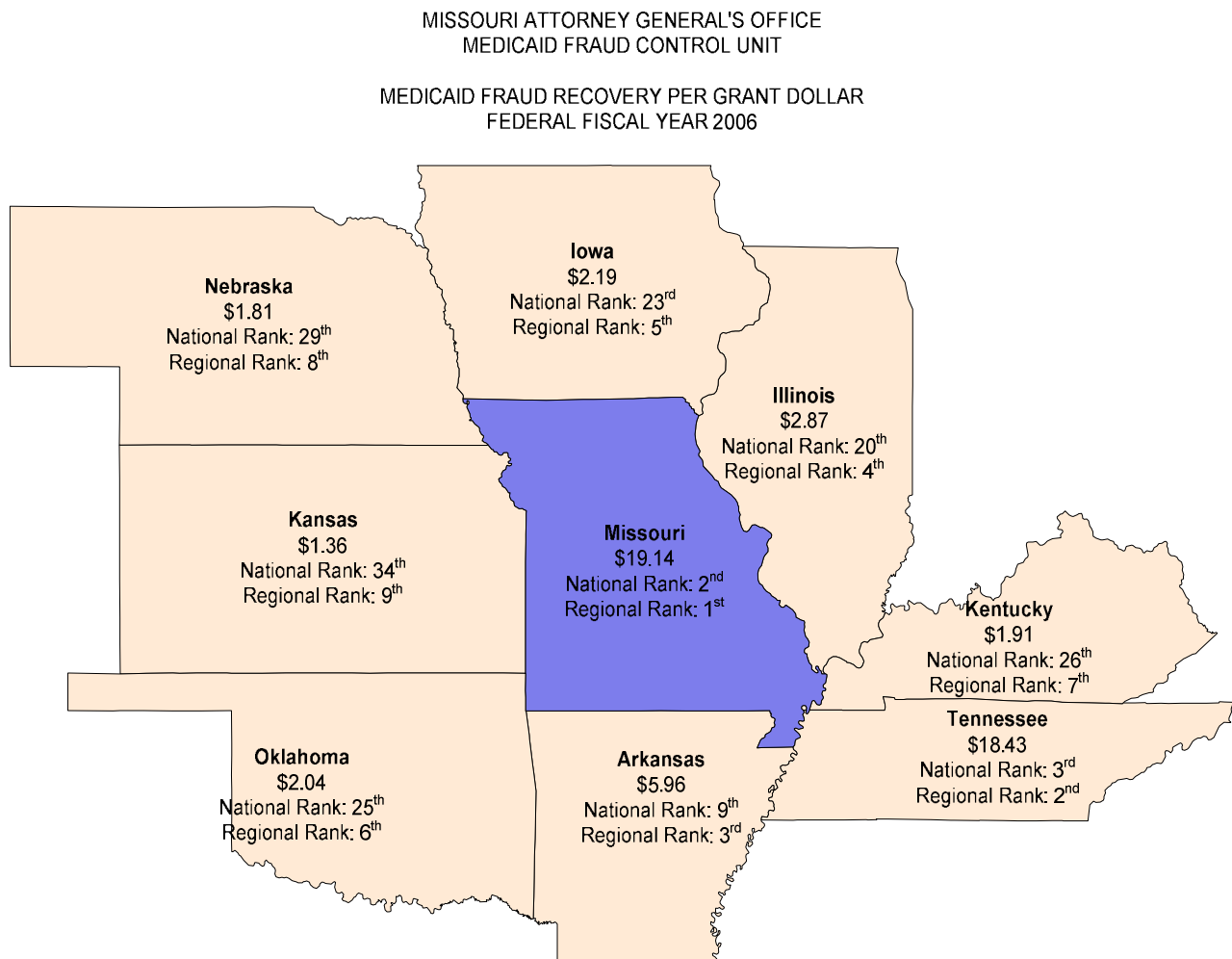
The Attorney General's Office obtained orders in the amount of \$16,210,118.48 to be paid to the Medicaid program during Federal Fiscal Year 2007. For the 2007 Calendar Year, the Attorney General's Office obtained orders in the amount of \$14,226,231.98 to be paid to the Medicaid program. Overpayments identified for Calendar Year 2007 were significantly less than the amounts ordered because the Attorney General's Office frequently obtains double and treble damages in particular cases.

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<sup>1</sup> The MOU is attached to this report.

The Attorney General's Office regularly participates in multi-state cases involving Medicaid fraud that may take a number of years to finalize. The resolution dates of these cases (whether resolved in one Calendar year versus another Calendar year) may have a significant impact on the year to year recoveries.

Based on the most recent national data available, the Attorney General's Office obtained \$19.14 for every grant dollar received – this ranked Missouri first in the region and second nationally. The below map illustrates Missouri's recovery per grant dollar as compared to our surrounding states:



### **Fines and Restitutions Ordered in Calendar Year 2007 and Still Owed**

In general, when the Attorney General's Office obtains a recovery for the Medicaid program, the payment is made at the time of the judgment or settlement. In some cases, the provider may be ordered to make installment payments to reimburse the Medicaid program. For orders that were entered in Calendar Year 2007, the installment amounts still owed at the end of the year was \$65,120.00 - less than half of 1% of the total amount ordered in Calendar Year 2007.

### **Cooperation with other Agencies**

In addition to the \$16,210,118.48 ordered to be paid to the Missouri Medicaid Program during Federal Fiscal Year 2007, the Unit is in the process of resolving claims against various providers that will likely lead to recoveries exceeding this amount for Federal Fiscal Year 2008. We will continue to work closely with the Office of Inspector General for Region VII, as well as with the Federal Bureau of Investigation, Department of Defense Criminal Investigative Service, Internal Revenue Service, Social Security Administration, U.S. Postal Inspectors, as well as local law enforcement and administrative agencies. The Director of the Medicaid Fraud Control Unit served as the President of the National Association of Medicaid Fraud Control Units (NAMFCU) for the 2006-2007 term and is now the Immediate Past President. He also serves on the Association's Executive Committee, Finance Committee, and Global Case Committee. He has been a member of and continues to serve on NAMFCU litigation teams successfully negotiating multi-state settlements.

### **Referrals and Closed Investigations**

The Attorney General's Office receives referrals from a number of sources and in a number of ways. The Attorney General's Office maintains a hotline number and on-line complaint process for the public to report possible fraud or abuse. The Attorney General's Office also receives referrals from the Department of Social Services and other State and Federal agencies.

Below is a summary of the investigations conducted during Calendar Year 2007 listed by provider type. This table shows the number of referrals received during 2007 and the number closed during 2007. Because referrals may take more than 12 months to be resolved, the number of closed cases includes referrals received before January 1, 2007.

As mentioned previously, the Medicaid Fraud Control Unit also works on a number of multi-state investigations related to Medicaid fraud. The Unit was involved in ninety-two (92) of these cases during Calendar Year 2007, most of which are still active.

While most referrals are handled civilly, there were seven (7) criminal cases initiated in Calendar Year 2007 and five (5) criminal cases finally resolved.

<b>Provider Type</b>		<b>Referrals</b>	<b>Closed</b>
CH	Chiropractor	0	0
CL	Clinic	2	1
DE	Dentist	3	0
DM	Durable Medical Equipment	0	1
DO	Osteopathic Physician	1	1
HH	Home Health	17	10
HO	Hospital	2	1
LA	Laboratory	1	1
MD	Physician	2	3
NH	Nursing Home	1	2
OD	Optometrist/Optician	0	0

Provider Type		Referrals	Closed
OF	Other Facility	2	1
OI	Other Institutions	0	0
OM	Other Medical Support	0	1
OP	Other Practitioner	3	1
OT	Other	6	2
PA	Patient Abuse	52	54
PD	Psychologist	5	8
PF	Patient Funds	4	2
PH	Pharmacy	7	6
PM	Psychiatrist	1	0
PO	Podiatrist	0	0
PP	Prepaid Health	0	0
SA	Substance Abuse	0	0
TR	Transportation	1	2
XI	X-Ray Imaging	0	0
	<b>Total</b>	<b>110</b>	<b>97</b>

Of the 110 referrals received during Calendar Year 2007, nineteen (19) were referrals from DSS. The majority of remaining referrals were either self-initiated or came from private citizens or other state and federal agencies.

**Age of Abuse and Fraud Cases When Closed**

The Attorney General's Office investigates both abuse and fraud cases. Below is a table summarizing the age of those cases that the Attorney General's Office closed during Calendar Year 2007.

	<b>0 - 6 Months</b>	<b>6 - 12 Months</b>	<b>12 - 24 Months</b>	<b>24 - 36 Months</b>	<b>More than 36 Months</b>	<b>Total</b>
<b>Fraud Cases</b>	6	9	6	11	11	43
<b>Abuse Cases</b>	31	13	1	3	6	54
<b>Total</b>	37	22	7	14	17	97



MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE MEDICAID FRAUD CONTROL UNIT OF THE  
OFFICE OF THE ATTORNEY GENERAL  
AND  
THE MISSOURI DEPARTMENT OF SOCIAL SERVICES

I. PURPOSE

The Medicaid Fraud Control Unit of the Office of the Attorney General and the Missouri Department of Social Services hereby enter into this Memorandum of Understanding pursuant to the federal requirements for State participation in the Medicaid Fraud Control Unit Program. Subject to such requirements and with regard to the parties' mutual responsibilities with respect to the Medicaid Program, the parties hereby seek to delineate their respective responsibilities, to identify areas in which they will assist each other, to ensure maximum efficiency and benefit to the State, and to minimize any duplication of effort.

II. PRINCIPLES

This Memorandum is to be interpreted in accordance with the following principles:

A. The Missouri Department of Social Services and the Medicaid Fraud Control Unit have a concurrent interest in the prevention, detection, investigation, and prosecution of fraud in the Medicaid Program.

B. The civil and criminal investigation and prosecution of provider fraud in the Medicaid Program is the primary responsibility of the Medicaid Fraud Control Unit.

C. The prevention, detection, and elimination of all fraud, abuse and improper practices in the Medicaid Program is the primary responsibility of the Missouri Department of Social Services.

D. The designation of the Medicaid Fraud Control Unit is for the express purpose of providing a completely independent review for possible civil and criminal prosecution of provider fraud or abuse in the Medicaid Program. Nothing contained in this Memorandum is meant in any way to affect the Fraud Unit's control or discretion in determining what inquiries to undertake or how they should be managed. It is understood and agreed that the Medicaid Fraud Unit shall have primary jurisdiction and discretion in

determining what actions of alleged fraud and abuse will be prosecuted civilly or criminally. The Missouri Department of Social Services expressly agrees to provide written notification to the Medicaid Fraud Control Unit of all complaints of fraud or abuse received by it.

E. The designation of the Missouri Department of Social Services as the single State agency is for the purpose of administering or supervising the Medicaid Program. Nothing contained in this Memorandum is intended to affect the Missouri Department of Social Services' authority with respect to the administration or supervision of the Medicaid Program. Nothing contained in this Memorandum is meant in any way to affect the Department of Social Services' control or discretion in determining specific administrative actions.

F. The parties mutually recognize the paramount importance of effective civil and criminal prosecution in the defense of society's basic norms of social conduct. They agree to jointly coordinate their activities whenever required to avoid impairing the effective civil and criminal prosecution of fraudulent conduct.

G. The parties mutually recognize that effective administration of the Medicaid Program is a prerequisite to the effective delivery of health services and maintaining the fiscal integrity of the State. The parties agree to coordinate their activities whenever necessary to ensure that all Medicaid funds paid by the State shall be for Medicaid services, as described in the Medicaid State Plan, that are actually delivered. Any overpayments will be expeditiously recovered.

### III. TERMS

A. Pursuant to 42 CFR Section 455.21 (a) (2) if the Medicaid Fraud Control Unit determines that it may be useful in carrying out the unit's responsibilities the Missouri Department of Social Services will promptly comply with requests of the Medicaid Fraud Control Unit for:

(1) Access to, and free copies of, any records or information kept by the Missouri Department of Social Services or its contractors;

(2) Computerized data stored by the agency or its contractors. These data must be supplied without charge and in the form requested by the unit. The Department of Social Services will continue to provide complete online access to all MMIS files on an ongoing basis and at no charge. The Medicaid Fraud Control Unit programmer will be able to compile, sort, format and print this data as desired and needed; and

(3) Access to any information kept by providers to which the agency is authorized access by section 1902(a) (27) of the Social Security Act and 42 CFR Section 431.107; and

B. The Missouri Department of Social Services will make its employees available as witnesses in criminal or civil proceedings undertaken by the Medicaid Fraud Control Unit and where contract agreements permit will make contractors and the employees of its fiscal agent available as witnesses in criminal or civil proceedings undertaken by the Medicaid Fraud Control Unit. To ensure the orderly and efficient management of staff time, requests for such witnesses, to the extent possible and where practical under the circumstances, will be made in writing and sufficiently in advance, so as not to disrupt ordinary staff activity of the Missouri Department of Social Services. Conversely, in the same manner the Medicaid Fraud Control Unit will make its employees available as witnesses in administrative proceedings undertaken by the Missouri Department of Social Services.

C. The Missouri Department of Social Services shall refer any matter in which it suspects fraud or abuse to the Medicaid Fraud Control Unit. Upon receipt, the Medicaid Fraud Control Unit will promptly screen the information to determine whether the matter requires further investigation for potential fraud or abuse. With respect to any matter as to which the Medicaid Fraud Control Unit determines to undertake an inquiry, the Medicaid Fraud Control Unit will confer with the Missouri Department of Social Services to establish a plan for coordinating any action with respect to the matter. Such plan may entail the exclusive management of the investigation by the Medicaid Fraud Control Unit or, by mutual agreement, a coordinated approach involving the Medicaid Fraud Control Unit and the Missouri Department of Social

Services, including its contractors, if any. Administrative actions by the Department of Social Services shall be held in abeyance for thirty (30) days if feasible, but may take place thereafter following consultation with the Medicaid Fraud Control Unit.

D. Whenever the Missouri Department of Social Services plans to undertake administrative action against improper practices or abuse in the provision of medical services in regard to a case which has been referred or is almost ready to be referred to the Medicaid Fraud Control Unit or which the Medicaid Fraud Control Unit has notified the Missouri Department of Social Services is under investigation for fraud or abuse, the Missouri Department of Social Services will, to the extent consistent with its legal obligations of confidentiality which allow for release of information in administration of the program, consult with the Medicaid Fraud Control Unit to ensure that the planned administrative action will be coordinated with any Medicaid Fraud Control Unit action that may be warranted. This shall include the following steps:

- (1) Details of the planned administrative action shall be provided by the Missouri Department of Social Services to the Medicaid Fraud Control Unit for review, including any additional information developed by the Missouri Department of Social Services which may be germane to the Medicaid Fraud Control Unit's action. Following such referral, the Department of Social Services shall hold the matter in abeyance for not more than thirty (30) days, if feasible, to permit Medicaid Fraud Control Unit review;
- (2) All administrative settlements, sanctions and decisions of the Missouri Department of Social Services must contain the explicit provision that such action has no bearing on any criminal liability the provider may have. The provision shall be prepared by the Medicaid Fraud Control Unit;
- (3) The Missouri Department of Social Services shall respect any requests of the Medicaid Fraud Control Unit that a particular witness not be relied upon in pursuing administrative remedies or that the identity of a particular witness not be revealed to the provider, where the Medicaid Fraud Control Unit determines that such action may prejudice the work of the Medicaid Fraud Control Unit; and

(4) The Missouri Department of Social Services shall give serious consideration to respecting any request by the Medicaid Fraud Control Unit to hold in abeyance, when feasible, any administrative action where the Medicaid Fraud Control Unit determines that such action may prejudice the work of the Medicaid Fraud Control Unit. However, it is understood between the parties that under appropriate exigent circumstances, such as dangerous care or grossly excessive services, the administrative action may reasonably take precedence.

E. The meetings of the Liaison Committee described in Section IV of this Memorandum of Understanding may be used as a forum for information exchange between the two parties. During these meetings, if the Medicaid Fraud Control Unit so requests, the Missouri Department of Social Services' representative(s) shall describe the circumstances involved in all cases on which it has reached a determination to take administrative action against a provider. The purpose of this presentation is to afford an opportunity to the Medicaid Fraud Control Unit to consider, during the course of the meeting, the potential for fraud prosecution in cases then being considered for administrative action. If the Medicaid Fraud Control Unit representative determines that a potential for fraud prosecution exists, the Missouri Department of Social Services shall promptly refer the matter formally to the Medicaid Fraud Control Unit in accordance with established procedures. The Missouri Department of Social Services will remain free to pursue the case administratively under its own authority.

F. Information obtained by the Medicaid Fraud Control Unit regarding Medicaid overpayments shall be referred to the Missouri Department of Social Services. Funds recovered by the Medicaid Fraud Control Unit on behalf of Medicaid in the form of restitution, damages, fines and penalties shall be forwarded to the Missouri Department of Social Services for deposit and/or disbursement pursuant to the laws of the United States and the State of Missouri.

G. The Missouri Department of Social Services recognizes that the Medicaid Fraud Control Unit will be undertaking as part of its responsibilities a substantial number of investigations on the basis of information obtained independent of any referral from the Missouri Department of Social Services. The Missouri Department of Social Services recognizes that these investigations

are an inherent part of the Medicaid Fraud Control Unit's responsibilities and will provide these investigations the same degree of assistance as it would in any investigation initiated by a referral from the Missouri Department of Social Services.

H. The Medicaid Fraud Control Unit, to the extent consistent with its legal obligations of secrecy and confidentiality, will, on a monthly basis, inform the Missouri Department of Social Services of those providers it has under investigation and will consult with the Missouri Department of Social Services with respect to the activities of such providers.

I. As soon as feasible after the Medicaid Fraud Control Unit has concluded that a particular inquiry it has directly initiated does not involve actionable fraud it will refer such matter to the Missouri Department of Social Services and, to the extent consistent with its legal obligations of secrecy and confidentiality, will make its information on such matter available to the Missouri Department of Social Services.

J. The Medicaid Fraud Control Unit agrees to refer, as soon as feasible, all instances of non-fraudulent program abuse or violation of program requirements which may come to its attention to the Missouri Department of Social Services for necessary and appropriate administrative action.

K. The Medicaid Fraud Control Unit agrees to submit to the Missouri Department of Social Services periodic reports of developing trends or other information which would assist the Missouri Department of Social Services in the efficient administration and monitoring of the Medicaid Program.

L. Copies of the policy manuals concerning the Medicaid Programs are available on the DMS website at [www.dss.mo.gov/dms](http://www.dss.mo.gov/dms).

#### IV. LIAISON COMMITTEE

Each party to this Memorandum will designate a member of its staff to serve as co-chairman of the Liaison Committee to be established herewith. Each party shall select such other members of its organization as it regards as necessary and appropriate for effective liaison with the



other party to serve on such a Committee which shall meet periodically as necessary, but no less than monthly.

The duties of this Committee shall be to review all referrals, potential referrals, requests for information, the two agencies' need for cross-training and for written guidelines or procedures and other matters pending between them that arise with regard to the implementation of this agreement.

V. PERIOD OF THE MEMORANDUM

This memorandum shall take effect upon execution by the parties and shall be in force for an indefinite period of time, until change is deemed necessary by either agency. These terms may be altered by the mutual written agreement of the parties.



JEREMIAH W. (JAY) NIXON

Attorney General of Missouri

Date 10/10/03



STEVE ROLING, Director

Missouri Department of Social Services

Date October 2, 2003